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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/461,625	12/14/1999	JOHN I. GARNEY	2207/7562	4071

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EXAMINER	
DUONG, FRANK	

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
06/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/461,625	GARNEY ET AL.	
	Examiner	Art Unit	
	Frank Duong	2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *26-31,36-41 and 45-56*.
   Claim(s) rejected: *2-21,23-25,33-35,42 and 43*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Frank Duong/
Primary Examiner, Art Unit 2616

Continuation of 3. NOTE: The proposed amendment will not be entered because it fails to place the instant application in a favorable condition for allowance. It is not deemed to place the instant application in better form for appeal by materially reducing or simplifying the issues for appeal. All of the Applicants' arguments have been noted, but they are not persuasive. Pertaining the obvious-type double patenting rejection of claims 45-47, 48-50, 51-53 and 54-56 as being a substantially duplicate of claims 26-28, 29-31, 36-38, 39-41, respectively, Applicants propose to cancel claims 26-31 and 36-41. This action would overcome the obvious-type double patenting rejection, should the proposed amendment be entered. Pertaining the rejection under 35 U.S.C. 101 of claims 2-21 and 42, the Applicants argue the claims are limited to within a technological arts as they're readily apparent to one ordinary skill in the art. Applicants fail to clearly point out what technological arts the claims limited to within. The claims just plainly call for a method of communicating data comprising the steps that loosely not tighted to or interconnected with each other. There is not a sense of what technological arts that the claims limited to within from reading the claims. The claims fail to direct to a practical application as the Applicants argued. Specifically, the claims fail to produce "useful, concrete, and tangible result" because the claimed steps are not interconnected. They call for steps of receiving a request; generating a frame template; performing a first transaction; and storing a transaction result, not interconnected. These steps are computer process steps within the computer resulting in no physical transformation of the data outside of the computer. The Office Action has clearly pointed out that in order for the claimed process to produce a "useful, concrete and tangible" result, recitation of one or more of the following elements is suggested:
1. The manipulation of data that represents a physical object or activity transformed from outside the computer (MPEP 2106 IVB2(b)(i)).
2. A recitation of a physical transformations outside the computer, for example in the form of pre or post computer processing activity (MPEP 2106 IVB2(b)(i)).
Apparently, the Applicants chose to argue rather than follow the suggestion. Pertaining the rejection of claims 2-21 and 42 under 35 U.S.C., first and second paragraph, the Applicants are silent or fail to bother to respond to the rejection. Applicants' action result in a conclusion that the rejections are just and proper. Pertaining the rejection of claims 2-4, 23-25, 33-35 and 42-44 under 35 U.S.C., paragraph 102(e) as being anticipated by Garney et al; and the rejection of claims 11-21 under 35 U.S.C., paragraph 103(a) as being unpatentable over Garney in view of Wooten, the Applicants repeat the arguments in the response filed 11/05/07. The arguments have been noted and fully considered. However, they are not persuasive. Examiner's responses to such arguments in the Office Action 01/24/08 are still application. Please refer to Office Action 01/24/08! Due to the proposed amendment fails to place the instant application in a favorable condition for allowance and the arguments are not persuasive, the rejection is maintained. Perhaps in a response to this Office Action Applicants should further amend the claims as suggested in the Office Action to place the instant application in a favorable condition for allowance .